

NATURAL RESOURCES BOARD
Conference Call
Minutes

A special meeting of the Natural Resources Board via telephone conference call was held Thursday, July 21, 2005, in Room 774B of the State Natural Resources Building (GEF 2), 101 South Webster Street, Madison, Wisconsin.

The meeting was called to order by Gerald O'Brien at 10:30 a.m.

Participating Board Members:

Gerald O'Brien (Stevens Point)
Howard D. Poulson (Palmyra)
Jonathan P. Ela, (Madison)
Herb Behnke (Shawano)
John Welter (Eau Claire)
Steve Willett (Phillips)

Absent – Christine Thomas

Order of Business

1. Modifications to Board Order ER-11-05, revisions to NR 12 related to proposed endangered/threatened species and gray wolf damage to livestock payment program.

Signe Holtz, Director, Endangered Resources Bureau stated that the NRB approved this rule in April 2005. Legislative hearings were held on this rule on June 16, 2005 by the Senate Committee on Natural Resources and Transportation and on June 29, 2005 by the Assembly Committee on Natural Resources. Both Committees returned the rule to the Department of unspecified modifications. To address the concern of both committees, the Department proposes to amend the criterion in NR 12.54(2)(c)5, that a cattle producer must meet in order to be eligible for payments for missing calves. Specifically, the rule now states that the three member agricultural committee (Department of Agriculture, Trade & Consumer Protection (DATCP), Farm Bureau, and UW Agriculture Extension) that will be established to determine caps on livestock payments would be responsible for determining if research would be an "unreasonable burden" on the claimant.

Mr. Behnke stated that Jeff Lehmkuhler of UW Extension doesn't want to participate on this committee because the policy of the UW not to be involved in decision-making policy, only education and advice. He also has heard there is reluctance from the DATCP representative.

Secretary Hassett stated that DATCP is in agreement and will participate on the committee.

Ms. Holtz stated she had contacted both DATCP and UW Extension several weeks ago. She had conversations with Dean Rick Klemme, who stated this would be an appropriate assignment for UW Extension. His employee contacted Mr. Behnke since then. She has been unable to speak with Dean Klemme since then.

Mr. Behnke asked what type of research is required of these landowners in order to receive reimbursement for missing calves.

Ms. Holtz stated that it is unknown how many calf mortalities are due to wolves. The people who donate money to the endangered resources fund would like to know that because that would help them feel more comfortable that actual wolf damage was being paid rather than other causes of death. At the December NRB meeting, USDA-Wildlife Services presented the research that they were conducting out West and the research they would like to conduct here in the Midwest. That is the research model discussed in the rule.

Mr. Behnke asked if documentation of what the research model would consist of is available to participants.

Ms. Holtz stated that the researcher submitted a research proposal to the Department based on what has been done out West.

Mr. Behnke asked for that documentation and if it had been handed out to the Board.

Ms. Holtz stated that she did not think so.

Mr. Behnke asked if the committee understands what they are supposed to be doing as a committee and how they will function.

Ms. Holtz stated that she discussed with Dean Klemme about what the committee could look like and what they could do. We are trying to address the livestock producers' concerns that we have unbiased, trusted experts who will be making the recommendations and decisions. We are hoping this situation will not occur very often, if at all. The Department will try to work with the producers to make it clear what the research will look like, what is required, and resolve any monetary issues. For example, the Department has worked with Defenders of Wildlife, to build a well at one farm. We are going to try to avoid getting to the point where we need to ask the panel to step in.

Laurie Osterndorf, Administrator, Division of Land stated that Jeff Lyon of the Farm Bureau has been briefed on the types of research and what the Department is looking for. They are on board and in favor of moving ahead with this committee.

Mr. Behnke stated he knows that the intentions are good, but he spoke with Jeff Lyon today and he stated that he doesn't have any idea what he is expected to do as a member of that committee. Mr. Behnke doesn't feel comfortable moving ahead with this as a Board policy until the details are worked out. He doesn't think the Cattlemen's Association is going to be comfortable to participate unless they specifically know how this thing will be carried out at their farm. There is concern about strange people among the cattle at given times of the year when the cattle are nervous.

Mr. Willett asked how long it will take if the Board decided to table this item. Could the Department come up with the criteria to properly address these concerns?

Secretary Hassett requested that Jordan Lamb have an opportunity to speak on behalf of the Cattlemen's Association.

Mr. O'Brien stated that would be fine.

Jordan Lamb, Cattlemen's Association Lawyer stated that she has been working with the Cattlemen's Association, Signe Holtz, and Jeff Lyon to write the amendment to the rule. She understands that Jeff Lyon is ok with the rule. The Cattlemen's Association wants the goal of this amendment to be that there is an opportunity to opt out of the research if it is an economic burden on the farmer. The Cattlemen's Association is not committed to the committee to be made up of these three specific agencies. It could be other representatives besides the three that were chosen.

Mr. Welter asked Ms. Lamb if this were not to work out with UW Extension, does she have suggestions for alternatives.

Ms. Lamb stated that representatives appointed by the Secretary of DATCP or DNR would be fine.

Mr. Welter stated that he has been in a situation in the past where the UW doesn't want to cast the deciding vote on issues. He stated that if there is any doubt about their willingness to participate, we should be thinking of an alternative. He asked Secretary Hassett if he thought UW Extension is willing to participate.

Ms. Holtz stated that two days ago Dean Klemme stated that he thought it was reasonable.

Bill Smith, Deputy Secretary stated that Secretary Hassett was not able to make a direct contact with the UW, but he has a commitment from DATCP. If the UW feels it is outside of their appropriate role, we can come up another third party to participate on the panel.

Mr. Welter asked if we could pass this rule now to reflect the possibility of a panel change.

Mr. Andryk stated the Board can modify the rule now to take out UW Extension and state a DNR appointed representative or appoint someone within DNR if that was ok with the Cattlemen's Association.

Mr. O'Brien stated that the Cattlemen's Association would not want the DNR appointing someone to hear their complaint against the Department.

Ms. Lamb stated she would get verification from the Cattlemen's Association, but she believes that they would be ok with the DNR appointing someone as long as the other two members were from the Farm Bureau and DATCP.

Mr. Behnke stated that DATCP contacted him a few days ago and they are concerned that they do not have specifics on what their representative would be expected to do. In conversations with DATCP, Mr. Behnke stressed the importance that they be involved in this issue. He believes the Department needs to clarify the expectations of this panel before they sign on.

Mr. O'Brien asked about timing of this rule. Is there some reason why the Department can't take time to get the criteria established?

Mr. Andryk stated there isn't any time limit. The rule is on hold until it gets sent back to the legislative committees with the Board recommendations.

Ms. Holtz stated that DATCP and Farm Bureau wants to get the rule in place as soon as possible.

Mr. Behnke stated he also thinks that they want to be clear on what the rule states before it is put in place.

Mr. Poulson stated that he agrees with Mr. Behnke that the specifics need to be spelled out before we send it back to the legislature.

Mr. Behnke MOVED, seconded by Mr. Poulson to postpone Board action on modifications to Board Order ER-11-05, revisions to NR 12 related to proposed endangered/threatened species and gray wolf damage to livestock payment program until confirmation from all three agencies participating on the committee is obtained, clarification of the role of each committee member is defined, and there is clarification about specific research criteria that will be used.

Mr. O'Brien clarified that Mr. Behnke is requesting confirmation from all three agencies will participate on the committee and clarify specific research criteria before it comes back before the Board.

Mr. Ela asked if the research criteria just include the danger of having people on the lands during certain times of years or are we asking for the specifics of the study to be spelled out. That would be inappropriate because the study scheme may change over time.

Mr. Behnke stated that he doesn't know if his comment about uncomfortable at certain times of the year should be included, but it's a concern and could be spelled out in the criteria.

Mr. Ela clarified the rule might state that the concern is the degree of intrusion and disruption to the farming operation.

The motion carried unanimously by all members present. Dr. Thomas was absent.

2. Modifications to Board Order ER-12-05, revisions to NR 12 related to proposed endangered/threatened species and gray wolf damage personal property damage rules.

Ms. Holtz stated that the NRB approved this rule in April 2005. Legislative hearings were held on this rule on June 16, 2005 by the Senate Committee on Natural Resources and Transportation and on June 29, 2005 by the Assembly Committee on Natural Resources. Both Committees returned the rule to the Department for unspecified modifications. The Department proposes to delete the "5-mile rule" portion of the rule.

Public Appearance

Joe Handrick, Minocqua, Bear Hunters Association stated that Scott Meyer has been involved in this issue and he was unable to attend this meeting, so he asked Mr. Handrick to attend. He thanked the Board and the Department for their ongoing work on this issue. He thanked Secretary Hassett and staff for agreeing to remove the 5-mile provision rule. This is the biggest concern that the Bearhunters Association has. He hopes that the Board follows the staff recommendation. He stated that he received a memo from George Meyer suggesting a three-member panel of dog experts to consider appeals to the \$2,500 cap. He thinks that is an excellent idea and would support something along those lines.

Mr. Willett MOVED, seconded by Mr. Poulson to adopt modifications to Board Order ER-12-05, revisions to NR 12 related to proposed endangered/threatened species and gray wolf damage personal property damage rules.

Mr. Poulson stated that when this came before the Board in April he voted against the 5-mile rule. He supports the change proposed by the Department.

Mr. Welter stated he supports some kind of criterion that puts the burden on the dog owners. He wants information and monitoring of where claims are coming in from the areas from recent kill areas. He doesn't support the deletion of the 5-mile rule.

Mr. O'Brien agrees with Mr. Welter that the Board looks at the research after one or two year of dogs killed by wolves near recent kill sites.

Mr. Willett suggested that it should be in two years because of the nature of the hunt. One year is for baiters and one year is for dog hunters.

Mr. Ela stated he has been provided with some figures provided by staff regarding dog kills by wolves if the 5-mile rule would have been in effect. The average claim was around \$1,500 to \$1,700. Last year, it would have saved the Department \$8,000. It's not a huge savings, but coming out of a small pot of money. He doesn't think it's unreasonable to ask bear hunters to share some responsibility of what happens to their dogs in areas of known hazard. He is in favor of keeping the 5-mile rule and reviewing it in two years.

Mr. Willett stated he agrees with Mr. Ela, but knows what happens when the Board doesn't cooperate with the legislature. He thinks the Board should go ahead with the Department's recommendation.

Mr. Behnke MOVED, seconded by Mr. Ela to amend the rule to include a report in two years outlining dogs killed by wolves in known wolf kill areas.

Mr. Ela stated that he has reservations about voting for this rule. If the legislature thinks that it's a good public policy that there be an open-ended taxpayer liability to pay hunters that knowingly put their dogs at risk in areas where they have been informed that there is a severe wolf hazard, then it's the legislature's responsibility to pass legislation to that effect. It's not necessarily the role of this Board to establish that policy. He thinks the Board had it right the first time.

Mr. Behnke stated that need to recognize that there are wolves all over in the wooded area in Northern Wisconsin, not a particular 5-mile area. Bear hunters are hunting among the wolves all the time.

The motion to amend carried unanimously by a roll call vote. Dr. Thomas was absent.

Mr. Welter MOVED to amend to separate the deletion of the 5-mile rule and the \$2,500 cap as two separate items. The motion failed due to a lack of a second.

The original motion passes by a role call vote 4-2.

Yes

Herb Behnke

Dan Poulson

Steve Willett

Gerald O'Brien

No

John Welter

Jonathan Ela

Dr. Thomas was absent.

The meeting adjourned at 11:30 a.m.